



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

WMP
Docket No: 4840-02
26 November 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 November 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 25 May 1973 for four years at age 18. Your record reflects that you served without incident until 1 November 1973, when you received nonjudicial punishment (NJP) for unauthorized absence from 23 to 26 October 1973, a period of four days. The punishment imposed was 14 days of restriction and extra duty.

On 7 November 1973 you received NJP for failure to go to your appointed place of duty. The punishment imposed was 5 days of restriction and extra duty. On 19 December 1973 you again received NJP for failure to go to your appointed place of duty. The punishment imposed was a forfeiture of \$100.

On 20 March 1974 you received NJP for a 19 day period of unauthorized absence from 28 February to 18 March 1974 and

missing ship's movement. The punishment imposed was 30 days of correctional custody.

You were then an unauthorized absentee from 14 to 18 September 1974, a period of five days; 23 September to 11 October 1974, a period of 19 days; and 16 October 1974 to 21 January 1975, a period of 98 days. On 27 February 1975, you submitted a request for an undesirable discharge for the good of the service in lieu of trial by court-martial for the 122 days of unauthorized absence. Prior to submitting this request, you conferred with a qualified military lawyer and were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. On 17 March 1974 your request for discharge was approved by the discharge authority. As a result of such action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. You received the undesirable discharge on 2 April 1975.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, and your feelings of remorse for your actions. Nevertheless, the Board found that your 122 days of unauthorized absence and ensuing request for discharge clearly warranted an undesirable discharge, especially when your prior disciplinary record is taken into account. The Board also believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain with the Navy when your request for discharge was granted and you should not be permitted to change it now. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that

a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director